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*The Center for Alternative Dispute Resolution Newsletter
State of Hawaii, Judiciary*



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Implicit Bias

Implicit bias is unconscious, automatic, and deeply ingrained. Even those of us who consciously believe in equality may act on prejudices of which we are not aware. Unconsciously, we may listen more carefully to some people, believe others, and favor the perceptions of some over the points of view of others. To be as effective as possible, ADR professionals should be aware of their own implicit biases and those of the parties they try to assist.

There is interesting research on implicit bias. In October 2012, the National Academy of Sciences published, "[Science Faculty's Subtle Gender Biases Favor Male Students](#)," an article in which researchers at Yale University examined gender bias. They created an application for a student seeking a laboratory manager position and asked science faculty members, nation-wide, to rate the applicant. Some faculty members received materials with the name of a male applicant and others with the name of a female applicant. Faculty members consistently rated the male applicant higher, offered him a higher salary and mentoring, and evaluated the male as more competent than the female applicant, despite identical credentials. Even though scientists are trained to be objective, they acted on implicit bias. The [Implicit Association Test](#) uses reaction time to measure subconscious bias. You may want to visit the site and take one of the tests.

The National Center for State Courts offers guidance to individuals and organizations for combating implicit bias in [Strategies to Reduce the Influence of Implicit Bias](#). Awareness of implicit bias, training in both the extent of implicit bias and diversity, use of decision support tools and processes, peer feedback, and increased exposure to counter-stereotypic role models may mitigate the influence of implicit bias on decisions and actions.



Summary for those who missed the forum:

Addressing Gender Identity and Sexual Orientation Issues that Arise in Mediation,

with Dr. Robert Bidwell

It may be easy for the majority of people to think that they are not in contact with lesbian, gay, bisexual, transgender, and questioning/queer (LGBTQ) youth and adults, Dr. Robert Bidwell said, because most of us presume that other people are “like us.” As the majority of the population is heterosexual, it is easy to assume that those around us are too. However, as a physician, Dr. Bidwell has found that it can be lifesaving to question assumptions about another’s gender identity and sexual orientation.

Using two patients’ case histories, Dr. Bidwell illustrated the impact of communicating without judgment. By listening to these patients without judging, Dr. Bidwell enabled them to feel free to disclose information about their sexual orientation (attraction to others) and gender identity (the inner sense of being male or female). Dr. Bidwell noted that this kind of disclosure can be uncomfortable for all parties, but that proceeding without such information can have negative consequences, especially because the risk factors for LGBTQ youth are so great. Studies show that LGBTQ youth are more likely to be isolated than other youth and more likely to experience fear and physical violence. Without asking the appropriate questions in a non-judgmental way, a physician might not become aware of LGBTQ issues or be prepared to address the many risks facing LGBTQ patients. For example, [research conducted by Caitlin Ryan, PhD](#) shows that even a small reduction in family rejection reduces the frequency of risky behaviors by LGBTQ youth.

During the question and answer period, some of the mediators in the audience asked how to apply Dr. Bidwell's insights to their practice. It was suggested that mediators might work to heighten their awareness about a party's sense of safety in the process and learn to provide signals that the mediator is open to disclosures of the party's sexual orientation and gender identity. Continuing issues for LGBTQ parties in mediation might include awareness by the mediator of an individual's gender identity; the mediator's conscious use of appropriate pronouns when referring to a transgender party; and concerns about the likelihood of a fair settlement in the context of LGBTQ bias. Dr. Bidwell provided information about how to promote fairness and address LGBTQ bias.